

FILED

UNITED STATES COURT OF APPEALS

SEP 9 2020

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

MOI MICHAEL, an individual,

Plaintiff-Appellant,

v.

CHIHULY STUDIO, INC., a Washington
corporation; DALE CHIHULY,
individually and as a married person;
LESLIE CHIHULY, individually and as a
married person,

Defendants-Appellees.

No. 19-35852

D.C. No. 2:17-cv-00853-RSL
Western District of Washington,
Seattle

ORDER

Before: Peter L. Shaw, Appellate Commissioner.

I

Opening Brief And Excerpts Of Record

At Docket Entry No. 19, the court granted appellant Michael Moi's unopposed motion to file under seal his unredacted opening brief and unredacted Volume 8 of the excerpts of record. The Clerk filed the unredacted documents under seal.

The order stated that Moi's motion was inadequate because the district court's sealing orders were the only stated basis for filing under seal. Based on its

own review, however, the court granted filing under seal, and ordered Moi to submit a redacted opening brief containing the parties' agreed-upon redactions and a redacted Volume 8 containing any redacted versions of the documents that were publicly filed in the district court.

The parties agreed on the form of the redactions, but Moi determined not to stipulate to continuing the district court's seal of the redacted information. Pursuant to the court's order, however, Moi submitted and the Clerk filed the redacted documents.

Appellees Chihuly Studio, Inc.; Dale Chihuly; and Leslie Chihuly (together, "Chihuly") filed a late response to Moi's motion requesting, and including argument in support of, filing the unredacted documents under seal. Moi filed under seal a response with argument requesting to publicly file the response and the unredacted documents that he previously asked to file under seal. Chihuly filed under seal a reply, along with a request to maintain Moi's response under seal. Moi filed under seal a response to Chihuly's request to maintain his response under seal, along with a request to maintain this response under seal.

Moi's opposed request (Docket Entry No. 31) to publicly file the unredacted documents is construed as a request for reconsideration of the court's order at Docket Entry No. 19 and, so construed, is granted in part as follows. In view of

Moi's request for public filing, and the parties' additional briefing regarding filing under seal, the court's order at Docket Entry No. 19 is amended in part to add that the court's filing under seal of the unredacted opening brief and unredacted Volume 8 of the excerpts of record is subject to further review by the merits panel or further order of the court. In all other respects, the order remains in effect.

Chihuly's opposed request (Docket Entry No. 32) to maintain under seal Moi's response at Docket Entry No. 31 and Moi's request to maintain under seal its response to that request (Docket Entry No. 38) are granted, subject to further review by the merits panel or further order of the court. The Clerk shall maintain under seal Moi's response at Docket Entry No. 31, Chihuly's reply at Docket Entry No. 32, and Moi's response at Docket Entry No. 38.

II Answering Brief And Supplemental Excerpts Of Record

Chihuly's opposed motion to file under seal Volume 3 of the supplemental excerpts of record (Docket Entry No. 35) is granted, subject to further review by the merits panel or further order of the court.

Within 7 days after the filing date of this order, Chihuly shall submit for public filing a redacted Volume 3 of the supplemental excerpts of record that

redacts the highlighted portions of the protective order response as described in the motion.

The Clerk shall publicly file Chihuly's motion at Docket Entry No. 35, the answering brief, Volumes 1 and 2 of the supplemental excerpts of record, and the redacted Volume 3 of the supplemental excerpts of record, and shall file under seal the unredacted Volume 3 of the supplemental excerpts of record.

III Reply Brief

The existing briefing schedule continues in effect. Moi's optional reply brief is due October 19, 2020.